IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4677 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

THAKKAR MANGALJI LALJI & SONS

Versus

BHUJ AREA DEVELOPMENT AUTHO (BHADA)

Appearance:

1. Special Civil Application No. 4677 of 2004

MR SK PATEL for Petitioner No. 1

MR NIKHILESH J SHAH for Respondent No. 1

MR S.N. SHELAT, A.G with MS MAITHILI MEHTA, A.G.P for Respondent No. 2

MR BY MANKAD for Respondent No. 3-3/3

CORAM : HON'BLE MR.JUSTICE A.R.DAVE

Date of decision: 12/08/2004

ORAL JUDGEMENT

1. RULE. Service of rule is waived by learned advocate Shri N.J. Shah for respondent no. 1, by learned A.G.P. Ms Maithili Mehta for respondent no.2 and by learned advocate Shri B.Y. Mankad for respondents nos. 3, 3/1 to 3/3. At the request of the learned advocates, the petition is finally heard today.

2. Looking to the manner in which this petition is to be disposed of, I do not think it necessary to go into the details of the case. Suffice it to state that the petitioner, who was an owner of Survey No. 2328, was subsequently given original plot no. 1292, and in pursuance of Bhuj Town Planning Scheme No. 5 ultimately, Final Plot No. 770 has been allotted to the petitioner. A map giving details with regard to Final Plot No. 770 is on page 12 of the petition. It has been stated that the road giving access to the petitioner to the main road is having width of 1.99 meters at one end and 1.93 meters at the other end. According to the petitioner, he is to have his godown or shops on his plot and, therefore, it would be very difficult for him to take his vehicle through the road with such a small width. Of course, it has been submitted by learned advocate Shri B.Y. Mankad for the other contesting respondents that in fact the width of the road is 2.19 meters.

3. Be that as it may, the fact remains that the width of the road is lesser than the ideal road width determined by respondent no.1-authority.

4. Looking to the facts of the case, the petitioner would like to submit a representation to respondent no. 1 so that the case for variation in accordance with the provisions of the Gujarat Town Planning and Urban Development Act, 1976 (hereinafter referred to as the "Act") can be considered by the State of Gujarat.

5. In the circumstances, it is directed that the petitioner shall submit an application praying for variation of the scheme to respondent no.1 and respondent no. 1 shall consider the same in the light of the provisions of the Act and in accordance with law. It is hoped that the concerned authorities shall do the needful as soon as possible, upon getting an application from the petitioner.

6. In view of the above direction given by this Court, the petition stands disposed of as allowed. Rule is made absolute to the above extent with no order as to costs.

(A.R. DAVE, J.)

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